

AMENDED IN SENATE APRIL 25, 2006

SENATE BILL

No. 1810

Introduced by Senator Dunn

February 24, 2006

An act to amend and repeal Section 10236.14 of, and to add Section 10235.35 to, the Insurance Code, relating to long-term care insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1810, as amended, Dunn. Long-term care insurance.

(1) Existing law provides for the regulation of long-term care insurance by the Insurance Commissioner. ~~Under existing law, an insurer is required to offer at the time of application for the policy, an option to purchase a shortened benefit period nonforfeiture benefit with specified features.~~

~~This bill would require an insurer to automatically provide, under specified conditions, a contingent nonforfeiture benefit having specified features to an insured who did not purchase the shortened benefit period nonforfeiture benefit~~ *authorize the commissioner to require administration by an insurer of the contingent benefit upon lapse, as specified, as a condition to approving or acknowledging a rate adjustment for a block of business for which that benefit is not otherwise available.*

(2) Existing law, until January 1, 2008, requires the commissioner to disapprove a premium rate schedule increase request if it exceeds a specified amount, except under specified circumstances.

This bill would delete the provision terminating this particular rate increase prohibition thereby extending its operation indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 10235.35 is added to the Insurance Code, to read:

~~10235.35. (a) An insurer shall automatically provide contingent nonforfeiture benefits at no cost to an insured who did not purchase a shortened benefit period nonforfeiture and who meets the following conditions:~~

~~(1) His or her policy lapses for nonpayment of a premium within 120 days of its due date.~~

~~(2) His or her policy has been in effect a minimum of 101 days.~~

~~(3) The amount of the premium has increased over the life of the policy by, at minimum, the percentage indicated in the table below based on the insured's age at the time the policy was issued.~~

Age in Years When Policy Was Issued	Percentage Increase Over the Initial Premium Amount
29 and under	200
30-34	190
35-39	170
40-44	150
45-49	130
50-54	110
55-59	90
60	70
61	66
62	62
63	58
64	54
65	50
66	48
67	46
68	44
69	42
70	40
71	38
72	36
73	34

1	74	-32
2	75	-30
3	76	-28
4	77	-26
5	78	-24
6	79	-22
7	80	-20
8	81	-19
9	82	-18
10	83	-17
11	84	-16
12	85	-15
13	86	-14
14	87	-13
15	88	-12
16	89	-11
17	90 and over	-10

(b) ~~(1) The insurer shall provide the same benefits and coverage under the contingent nonforfeiture benefit as provided to the insured under the policy prior to its lapsing.~~

~~(2) The maximum amount an insurer is required to pay for claims under the contingent nonforfeiture benefit is the greater of the total amount of premium paid over the life of the policy or 30 times the amount of the daily nursing home benefit.~~

~~(3) Notwithstanding paragraph (2), an insurer shall not be required to pay any amount for claims under the contingent nonforfeiture benefit that exceeds the maximum amount payable under the policy prior to its lapsing.~~

~~(4) The insurer may offer a contingent nonforfeiture benefit with different provisions than described in this subdivision if the benefit otherwise complies with the requirements of this subdivision.~~

~~(e) The insurer shall notify its insureds prior to July 1, 2007, of the contingent nonforfeiture benefit and shall advise that an insured qualifying under subdivision (a) shall be deemed to have elected the benefit.~~

~~(d) The provisions of this section apply to all individual and group long-term care insurance policies.~~

~~(e) If a policy has been sold or otherwise transferred to an insurer other than the insurer that issued the policy, the percentage increase described in subdivision (a) shall be calculated based on the premium charged by the insurer that initially issued the policy.~~

10235.35. (a) Notwithstanding any other provision of law, the commissioner may require the administration by an insurer of the contingent benefit upon lapse, as described in Section 26 (A), (D) (3), (E), (F), (G), and (J) of the Long-Term Care Insurance Model Regulation promulgated by the National Association of Insurance Commissioners, as adopted in October 2000, as a condition of approval or acknowledgment of a rate adjustment for a block of business for which the contingent benefit upon lapse is not otherwise available.

(b) The insurer shall notify policyholders and certificate holders of the contingent benefit upon lapse when required by the commissioner in conjunction with the implementation of a rate adjustment. The commissioner may require an insurer who files for such a rate adjustment to allow policyholders and certificate holders to reduce coverage pursuant to Section 10235.50 to avoid an increase in the policy's premium amount.

(c) The commissioner may also approve any other alternative mechanism filed by the insurer in lieu of the contingent benefit upon lapse.

SEC. 2. Section 10236.14 of the Insurance Code, as added by Section 9 of Chapter 812 of the Statutes of 2000, is amended to read:

10236.14. Approval of all premium rate schedule increases shall be subject to the following requirements:

(a) Premium rate schedule increases shall demonstrate that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(1) The accumulated value of the initial earned premium times 58 percent.

(2) Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis.

(3) The present value of future projected initial earned premiums times 58 percent.

1 (4) Eighty-five percent of the present value of future projected
2 premiums not in paragraph (3) on an earned basis.

3 (b) In the event the commissioner determines that a premium
4 rate increase is justified due to changes in laws or regulations that
5 are retroactively applicable to long-term care insurance
6 previously sold in this state, a premium rate schedule increase
7 may be approved if the increase provides that 70 percent of the
8 present value of projected additional premiums shall be returned
9 to policyholders in benefits and the other requirements applicable
10 to other premium rate schedule increases are met.

11 (c) All present and accumulated values used to determine rate
12 increases should use the maximum valuation interest rate for
13 contract reserves. The actuary shall disclose as part of the
14 actuarial memorandum the use of any appropriate averages.

15 (d) If the requested premium rate schedule increase on any
16 new policy form approved under Section 10236.11 exceeds 15
17 percent or if the requested premium rate schedule increase on any
18 policy form approved under Section 10236.11 plus all increases
19 occurring after July 1, 2002, in the premium rate schedule for the
20 same policy form exceed 15 percent, no request for a rate
21 increase on any policy form shall be approved by the
22 commissioner except as follows: all the insurer's individual
23 experience on long-term care policy forms issued in this state
24 that have been approved pursuant to Section 10236.11 are pooled
25 together to project future claims experience and the combined
26 experience satisfies the requirements in subdivision (a). An
27 insurer is not precluded from filing requests for premium rate
28 schedule increases on all of its policy forms if the combined
29 experiences after pooling all applicable policy forms satisfies the
30 requirements of subdivision (a).

31 (e) No approval for an increase in the premium schedule shall
32 be granted unless the actuary performing the review for the
33 commissioner certifies that if the requested premium rate
34 schedule increase is implemented and the underlying
35 assumptions, which reflect moderately adverse conditions, are
36 realized, no further premium rate schedule increases are
37 anticipated. The certification may rely on supporting data in the
38 filing.

1 (f) The provisions of this section are applicable to all
2 individual and group policies issued in this state on or after July
3 1, 2002.

4 SEC. 3. Section 10236.14 of the Insurance Code, as added by
5 Section 10 of Chapter 812 of the Statutes of 2000, is repealed.

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